



September 28, 2010

Via Electronic Submission

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Petition of Public Knowledge et al. for Declaratory Ruling Stating that Text Messaging and Short Codes are Title II Services or are Title I Services Subject to Section 202 Nondiscrimination Rules, WT Docket No. 08-7*

Dear Chairman Genachowski:

The Mobile Giving Foundation (“MGF”) writes in response to the August 3, 2010 letter of American Public Media *et al.* (collectively, “American Public Media”) in support of the relief requested in the Public Knowledge Petition. MGF agrees with American Public Media regarding the ease of use, low cost and efficiency of text messaging for communications between non-profit organizations and their supporters, and particularly for charitable giving. The mobile channel has proven well-suited to spontaneous charitable giving, as demonstrated by the \$43 million raised through mobile giving for Haiti earthquake relief. However, American Public Media’s assertion that regulatory intervention is needed in this area appears to arise from confusion or misinformation. American Public conflates two different uses of the text messaging platform: peer-to-peer text messaging and premium SMS involving use of a short code. When the use and purpose of each of these different services is considered, it is clear that no regulatory intervention is necessary.

MGF is a 501(c)(3) tax exempt foundation founded in 2007 for the purpose of promoting and facilitating the use of the mobile channel for charitable giving. MGF has pioneered the organizational elements permitting charitable giving over wireless networks in the United States and Canada. The Foundation’s activities have involved developing and managing standards for use of the mobile channel for charitable giving; ensuring compliance with all applicable laws and regulations concerning charitable giving; certifying the participation of Non-Profit Organizations (NPOs) and their campaigns; managing message delivery and billing solutions across all carriers; acting as a billing settlement and records clearinghouse between carriers and participating charities; educating stakeholders and the general public on the use of mobile giving; and, researching the general effectiveness and value of engaging donors through text messaging. Accordingly, MGF is keenly interested in protecting and ensuring the continued integrity of the mobile channel for charitable giving.



American Public Media argues, based on “news of carriers disconnecting nonprofit organizations” (presumably the Catholic Relief Services incident described by Public Knowledge), that regulatory action is necessary to “protect users of text messages from unreasonable interference.” The suggestion is that somehow wireless carriers have intervened to prevent communications between non-profits and their supporters. This is simply untrue. There is no recorded case of U.S. wireless carriers blocking peer-to-peer text messaging in even a single instance. Users of text messaging services, including non-profits, are free to communicate whatever information they wish.

The Catholic Relief Services incident involved an application-to-peer communication using a permission-based fundraising technique that directed the potential donor to a credit card billing solution rather than a premium SMS billing solution using a short code. By definition, a *premium* SMS program involves a transaction that appears on the subscriber’s monthly phone bill. In the case of mobile giving, the transaction involves a charitable donation with 100% of the donation passed to the recipient charity through the MGF. Under standards implemented by the MGF and the wireless carriers, the entities involved in premium SMS campaigns for charitable giving must be vetted before-hand to ensure they are legitimate charities (*e.g.*, are registered 501(c)(3)’s and meet other requirements). Moreover, the programs themselves must be reviewed to ensure that they are not deceptive and that a user is properly apprised that their participation will result in a financial obligation. These standards protect consumers from fraud and ensure that the mobile giving experience is positive and secure.

Indeed, the incident involving Catholic Relief Services reinforces that these consumer protections work. When it was discovered that a short code with no registered campaign was being used for mobile giving, it triggered a carrier review with the aggregator and the Application Service Provider (“ASP”). Lack of registration raised a concern regarding possible consumer deception or confusion. The Catholic Relief Services program continued unabated while these concerns were reviewed and addressed. In short, the system worked.

When viewed in this light, it is clear that no regulatory intervention is necessary. The mobile channel is functioning as it should, enabling spontaneous giving to legitimate non-profits in a secure environment. MGF submits that removing the controls currently in place would have the perverse effect of making the mobile channel less secure and more susceptible to fraud, ultimately undermining the trust and integrity of mobile giving and the consumer protections all parties have strived to provide.



If you have any questions regarding mobile giving or the applicable standards in place to protect consumers and non-profits alike, please let me know.

Sincerely,

/s/ Jim Manis

Jim Manis
Chairman and CEO
Mobile Giving Foundation